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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,332	04/13/2004	Luciano Salice	298-230	4490

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EXAMINER

WILLIAMS, THOMAS J

ART UNIT PAPER NUMBER

3683

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,332

Applicant(s)

SALICE, LUCIANO

Examiner

Thomas J. Williams

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) 6-12 and 17-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5 and 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/13/04; 8/18/04; 12/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Acknowledgment is made in the receipt of the amendment filed May 6, 2005, the information disclosure statements filed April 13, 2004, August 18, 2004, and December 15, 2004, the oath filed April 13, 2004, and the foreign priority papers filed April 13, 2004.
2. Applicant's election of Species B in the reply filed on May 6, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1, 3-5 and 13-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Regarding claim 1, the phrase "for example", in lines 1-2, renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
6. Regarding claim 1, the phrase "such as", in line 3 ("e.g. a cylinder" is interpreted as "such as a cylinder"), renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
7. Claim 1 recites the limitation "the internal screw" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 3683

8. Claim 1 recites the limitation "the external screw" in line 8. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 16 recites the limitation "the pot" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 3-5 and 13-15 are rejected due to their dependence upon claim 1.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 5 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by US 1,218,197 to MacKinlay.

Re-claim 1, MacKinlay discloses a damping device comprising: plunger 18 is slidable in a hollow cylinder 14, the plunger is impinged by a spring 28, the hollow body comprises a spiral shaped stay of an internal screw thread (it is noted that the claim merely requires one element to have a screw thread, as evidenced by the phrase "and/or" in line 7), an intermediary piece 23 is arranged between the compression spring and the plunger.

Re-claims 5 and 16, see figure 3.

12. Claims 1, 3-5 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by US 1,654,763 to Tauscher.

Re-claim 1, Tauscher discloses a damping device, comprising: a plunger 37, a hollow body 36, a spring 30, the hollow body 36 is provided with spiral shaped internal threads that

Art Unit: 3683

engage threads of the plunger 37, see figure 2, an intermediary piece 32 is positioned between the spring and the plunger.

Re-claims 3-5, the intermediary piece is non-rotatably connected to the spring; the intermediary piece (interpreted as the integral member 27/32) comprises a roughened face 27a that is supported by the plunger; the compression spring 30 is non-rotatably held on a cover 31.

Re-claim 16, the damping device is inserted in a pot 15 (interpreted as a receptacle), during closing movement the plunger comes to rest against a hinge arm. A hinge is broadly interpreted as a rotatable connection, such as portion 16/17.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacKinley in view of DE 299 13 854 U1 to Salice.

US 6,553,617 is the English language equivalent of DE '854.

Re-claims 14 and 15, MacKinley fails to teach a non-rotatable elastomeric cap placed on the plunger. Salice teaches a damper having a non-rotatable elastomeric cap placed on a plunger element. This will reduce impact noise between the plunger and external object as well as reduce wear on the external object. It would have been obvious to one of ordinary skill in the art to have provided the plunger element of MacKinley with an elastomeric cap as taught by Salice, thus reducing impact noise between the plunger and external element.

Art Unit: 3683

15. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tauscher in view of DE 299 13 854 U1 to Salice.

US 6,553,617 is the English language equivalent of DE '854.

Tauscher fails to teach a high viscosity grease applied to the spiral surfaces of the damper. Salice teaches a damper having a high viscosity grease applied to cooperating spiral grooves. It would have been obvious to one of ordinary skill in the art to have provided the spiral groove surfaces of Tauscher with a high viscosity grease as taught by Salice, thus reducing the wear and tear between the cooperating elements.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Finnell et al. teach a damper having a lubricant disposed in cooperating spiral grooves.

17. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is 571-272-7128. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, can be reached at 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3683

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-6584.

TJW

July 18, 2005

THOMAS WILKINS
PATENT EXAMINER

Thomas Wilkins

Art 3683

7-18-05